REMARKS/ARGUMENTS

After the foregoing amendment, claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-36, 39, and 42 are currently pending in this application. Claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-34, 36, and 42 are amended. Claim 37 is canceled.

Telephonic Conference

The Applicant's representative thanks the Examiner for the telephonic conference held on January 15, 2009 discussing the independent claims and the cited references, in particular Gilmour. The Examiner and the Applicant's representative agreed upon amendments that will move the application forward.

Claim Rejections - 35 USC §102

Claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-37, 39, and 42 are rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 5,128,873 to Gilmour.

Gilmour is directed to an apparatus that:

> "permits an aircraft to determine its bearing to a pulse navigation system base station solely from low data rate pulses such as those normally used in TACAN systems for range determinations. The received data may be used to permit efficient rendezvous of two aircraft by means of antennas in both aircraft having selectable omnidirectional and rotating cardioid field strength patterns. A first aircraft switches its antenna to the omnidirectional pattern and transmits a low data rate pulse train to the other aircraft. The first aircraft then switches to the rotating cardioid pattern to receive pulses

> from the second aircraft. The first aircraft operates similarly so that each aircraft can determine its bearing to the other." (Gilmour, Summary of the Invention, column3, lines 15-30.)

Thus, Gilmour determines bearing and range. In navigation, bearing is commonly understood to mean direction (e.g., a determination of position, *See* http://www.merriam-webster.com/dictionary/Bearing) and range means distance. This is clearly a static determination and one skilled in the art recognizes that this static determination may be represented as a single point in a three-dimensional coordinate system.

In contrast, amended claim 1 recites:

> detecting an amount of motion of a communication device communicating the wireless signal or an external object in a signal path based on a measurement of a metric of a modulated signal attribute comprised of at least one of amplitude, frequency, and phase;
> selecting a parameter adjustment, based on the detected motion, of at least one of: an antenna mode, a power level, a forward error correction (FEC) coding rate, a number of modulation symbols, and a data transfer rate; and
> performing the parameter adjustment.

Thus, the method defined by claim 1 is clearly measuring motion or movement (*See* paragraphs 0043-0047 for a discussion describing motion). This is quite different from the mere determination of range and bearing. Also, see paragraph 0018 for support for adjusting more than one parameter at a time (e.g., at least one).

Gilmour does not disclose, teach, or suggest anything about determining an amount of motion and adjusting a parameter based on the amount of motion. Thus, the Applicant respectfully submits that claim 1 is allowable.

Claims 21 and 42 contain features discussed above relative to claim 1 and should be allowable for the same reasons.

The inventor's earlier patent application (Proctor, US 2005/0018635) does nothing to cure the deficiencies of Gilmour. This earlier application describes a technique for encoding signals in which individual traffic channel data rates may be adapted to specific channel conditions (Abstract). However, there is no disclosure, teaching, or suggestion of determining an amount of motion and adjusting a parameter based on the amount of motion.

Claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-37, 39, and 42 are rejected 35 U.S.C. §102(e) as anticipated by U.S. Patent Application Publication No. 2005/0018635 to Proctor, Jr.

Claims 2, 5-14, 16, 17, 19, 22, 25-36, and 39 are dependent upon claims 1, 21, and 42, respectively, and the Applicant believes these claims are allowable over the cited references of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the rejection of claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-36, 39, and 42 is respectfully requested.

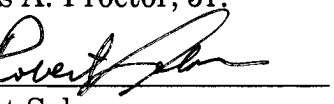
Conclusion

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicant respectfully submits that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

James A. Proctor, Jr.

By 
Robert Solomon
Registration No. 61,761

Volpe and Koenig, P.C.
United Plaza
30 South 17th Street
Philadelphia, PA 19103-4009
Telephone: (215) 568-6400
Facsimile: (215) 568-6499
RIS/CFK/dml